

MULTIMEDIA



UNIVERSITY

STUDENT ID NO

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MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 3, 2017/2018

PLE0042 – ENGLISH FOR LAW
(Foundation in Law)

06 JUNE 2018
9.00 a.m. – 11.00 a.m.
(2 Hours)

INSTRUCTIONS TO STUDENT

1. This question paper consists of **SEVEN** pages only.
2. Answer **ALL** questions in **Sections A, B and C**.
3. Please write all your answers in the answer booklet provided.

SECTION A: READING AND VOCABULARY [25 MARKS]

PART 1: READING COMPREHENSION (20 MARKS)

Read the passage below and answer all questions.

Wrongful Conviction in the American Judicial Process

- 1 It is tough to lose a child. It is even tougher to lose a child to murder. It must be unbearable to lose seven children to murder and be convicted of that crime committed by someone else. In 1968, James Joseph Richardson was convicted of seven deaths. All his seven children died, and the cause of death was parathion, an insecticide in the children's lunch. Evidence obtained was only the bag of parathion. That did not stop the prosecution against him although there was no physical evidence tying Richardson to the murder. At the end of the trial, the jury found him guilty, despite a weak motive of Richardson trying to wipe out his children for insurance money. Richardson sat on death row until the Supreme Court declared the death penalty unconstitutional, and his sentence was commuted to imprisonment. Throughout the years, the baby-sitter confessed to the murders several times, but she stayed free. In 1988, Richardson's lawyer, Mark Lane, presented evidence to his client's innocence. It took Richardson nearly 21 years behind bars before he was finally freed at the age of 53. This is just one out of a host of cases where false convictions take place and injustice wins the day. 15
- 2 "It is better that ten guilty persons escape than one innocent person suffers" is the most revered principle in the criminal law. This maxim, known as the Blackstone ratio, is exalted by judges and scholars as a fundamental principle of the American legal system. Although both wrongful convictions and wrongful acquittals affect public confidence in the criminal justice system, it suggests that judges should prefer false acquittals to false convictions. Intrigued scholars often question why it is 10:1 and whether the exact ratio of ten wrong acquittals to one wrongful conviction carries any weight. In fact, the number of ten wrongful acquittals can be expanded to 20, 30, or more, and no one contends that judges should ensure exactly ten wrongful acquittals for every wrongful conviction. The ratio of 10:1 is a general illustration, but what carries weight is the rationale behind the maxim: courts must err on the side of innocence. The presumption of innocence is like a golden thread in the criminal justice system. It is an ancient right embodied within most criminal justice systems in the world. Hence, the weight of this maxim lies in its rationale of giving a legal right to the defendant to be presumed innocent, not in its exact ratio between wrongful acquittals and wrongful convictions. 20 25 30
- 3 John Adams, an American statesman and lawyer, once applied the same rationale behind the Blackstone ratio. He stated, "It is more important that innocence should be protected rather than the guilt be punished. When innocence is condemned, it is immaterial to the subject whether he or she behaves well, as good behaviour itself ensures no security." The same view is held in the American legal realm. While the majority view wrongful convictions as grave judicial errors, as reflected in the Blackstone ratio, the minority hold the view that wrongful acquittals are worse. 35
- 4 In most criminal justice systems, including the United States', errors that result in wrongful convictions are considered more morally disturbing than errors that result in wrongful acquittals. Examples of such disturbing result are that taxpayers 40

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must commit resources to cover the imprisonment of an innocent person and the innocent defendant loses his or her freedom. Eighty years ago, Judge Learned Hand said, "Our procedure has always been haunted by the ghost of the innocent man convicted. It is an *unreal dream*." Nevertheless, what time has revealed is contrary to his honour's eloquent speech. The earliest research by Borchard in 1932 exposed 65 cases of innocent people being wrongfully convicted, even though the public was unconvinced. In Bedau and Radelet's study in 1987, it was again revealed that in capital cases, there were 350 wrongful convictions, and 23 innocent people had been executed. *The public was then awakened to this harsh reality, and these ugly revelations ushered in miscarriages of justice.* Contemporarily, although there are no definite statistics, estimates contend that 7,500 persons arrested for the more violent crimes are wrongfully convicted annually in the United States.

5 In contrast to reality, American schoolchildren are taught to have faith in the criminal justice system, and they are told that an innocent person has nothing to fear. With an idealistic vision, many Americans harbour the presumption that their criminal justice system is always fair. An assumption is also made that no person shall be convicted for a crime he or she did not commit. For them, the idea of wrongful incarceration or execution is utterly terrifying, and many believe that it is quarantined to only the realm of fiction, but their belief is far different from the reality. The judicial process has been plagued by eyewitness misidentification and unfounded forensic science. It is also unfortunate that some defence counsels fail to safeguard the rights of their clients effectively. This substandard lawyering also contributes to wrongful criminal convictions. Indeed, every person living in the United States is afforded the constitutional rights of due process and a trial by a jury, and the State must prove beyond a reasonable doubt that the defendant is guilty. However, this right is obviously defeated by wrongful convictions, and *it is not an exaggeration to say that wrongful convictions weaken democracy.* In a democratic country, it is well established that the right to a fair trial to prove a defendant's guilt beyond a reasonable doubt is cherished as a fundamental right.

6 Ultimately, as more revelations of wrongful conviction are brought to light, it becomes unquestionable that the American judicial system is fallible. Besides, police investigators have been found to have coerced confessions by subjecting defendants to gruelling interrogations or intimidating them. Similarly, state prosecutors have mishandled evidence. These instances prove that wrongful convictions are unavoidable as they result from legal and judicial processes involving human actors, including police, prosecutors and trial or appellate judges. Although the American justice system is generally respected as a fair judge of criminal activities, no system can be perfect, and as the American history of miscarriages of justice shows, innocent people will continue to spend time in prison.

Adapted from Jones, J.A. (2012). Wrongful Conviction in the American Judicial Process. Inquiries Journal, 4(8), 1-3. Retrieved from <http://www.inquiriesjournal.com/articles/6823/wrongful-conviction-in-the-american-judicial-process-history-scope-and-analysis>

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1. Suggest four points of evidence to prove that injustice occurred in the case of Richardson. (2 marks)
2. i. What can be concluded from the following statements? (1 mark)

Intrigued scholars often question why it is 10:1 and whether the exact ratio of ten wrong acquittals to one wrongful conviction carries any weight. In fact, the number of ten wrongful acquittals can be expanded to 20, 30, or more, and no one contends that judges should ensure exactly ten wrongful acquittals for every wrongful conviction. (lines 21 – 25)

- ii. Support your conclusion with two explanations. (2 marks)
3. Justify why most people in the American legal world would agree with the Blackstone ratio. (2 marks)
4. Provide three facts to prove that Judge Learned Hand's "unreal dream" (line 45) is wrong. (3 marks)
5. Based on the context in paragraph 4, explain the meaning of "The public was then awakened to this harsh reality, and these ugly revelations ushered in miscarriages of justice" (lines 50 – 51). (2 marks)
6. Explain why the perception of the American criminal justice system among many Americans is said to be different from the reality? (3 marks)
7. The author says, "...it is not an exaggeration to say that wrongful convictions weaken democracy" (lines 67 – 68). Elaborate on this statement. (2 marks)
8. i. What is the author's attitude towards the issue of wrongful convictions in the United States when he makes the following statement? (1 mark)

Although the American justice system is generally respected as a fair judge of criminal activities, no system can be perfect, and as the American history of miscarriages of justice shows, innocent people will continue to spend time in prison. (lines 77 – 80)

- ii. Justify why the author holds such attitude as identified in 8.i? (2 marks)

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PART 2: VOCABULARY (5 MARKS)

Fill in the blank in each sentence below with a word from the paragraph stated in parenthesis. The word must best suit and express the meaning of the sentence.

Example:

0. Domestic assault and battery charges are common in the state of Massachusetts, the United States, and those _____ may be ordered to stay away from the person on whom they committed the assault and battery.

Word: convicted (paragraph 1)

1. In a court decision, Lord Justice David Bean from the United Kingdom criticised the vague descriptions of powers in the Data Retention and Investigatory Powers Act 2014 and ruled that the law was _____ for violating the British public's right to protection of personal data.

Word: _____ (paragraph 1) (1 mark)

2. In an authoritarian political system, the state control over the people is excessive, and the power is in the hands of a military dictator whose political ideology is _____ by the people.

Word: _____ (paragraph 2) (1 mark)

3. Death sentence is the harshest form of punishment, and it is a very torturous process for _____ offenders as they await their fate with anguish before they are finally executed.

Word: _____ (paragraph 4) (1 mark)

4. Most legal profession courses focus on the role of lawyers in society, and in those courses, students have the opportunity to hone their _____ skills such as interviewing, negotiating, counselling, pre-trial litigation and oral advocacy in a real-life world.

Word: _____ (paragraph 5) (1 mark)

5. In the United States, there is a growing concern of the workplace political intimidation, and this happens when employees are _____ into supporting policies, or political candidates favoured by the employer.

Word: _____ (paragraph 6) (1 mark)

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SECTION B: GRAMMAR [10 MARKS]**PART 1: MODAL VERBS (5 MARKS)**

Fill in each blank with a suitable modal verb.

Japan's government has rammed through a historic bill needed to legalise casinos and open up the world's largest untapped gambling market after years of controversy and an impassioned midnight vote. The landmark rule change, which was first mooted almost 17 years ago and draws thin support from ordinary Japanese, was passed recently. However, due to the possible continuous objection by the majority of Japanese, the doors of Japan's first casino (1) _____ not open immediately or anytime soon.

The passage of the bill followed a 10-day run of debates that provoked various parliamentary stunts including Buddhist chants, a flood of tears from the leader of the main opposition party, an invocation of the late Emperor Meiji and several motions of no confidence in Prime Minister, Mr. Shinzo Abe. Nevertheless, in a parliamentary session that lasted less than 15 minutes and saw protest walkouts by some members of parliament, the lower house voted through a casino promotion bill that has been years in the making. After passing this first casino legalisation bill, Japan (2) _____ pass the second bill, which is the integrated resort implementation bill, before casino legalisation can be implemented fully.

The result starts a political, legal and practical process to settle the terms under which Japan will operate so-called integrated resorts that combine casinos with hotels, conference and entertainment facilities. Billy Ng, gaming analyst at Bank of America Merrill Lynch, is confident that Japan (3) _____ reap annual industry-wide revenues of \$40 billion if it builds resorts around the country. One of the arguments by the ruling Liberal Democratic party for strongly promoting casinos is that the presence of casinos and integrated resorts will encourage tourists to continue visiting Japan long after the 2020 Tokyo Olympics. Japan has seen a surge in overseas visitors over the past four years. The bill also means that Japan can add casino gaming to the limited list of legalised forms of gambling in Japan. The background of the passage of the casino bill is Japan's "pachinko" industry, a vertical pinball game, which allows players to gamble in a grey market. The strength of the "pachinko" industry, which attracts customers to about 12,000 parlours nationwide and has gross revenues in excess of \$180 billion a year, is treated by many analysts as a sign of how Japanese customers (4) _____ take to casino gaming if casinos became a reality in Japan.

Wakayama Network, the opposition party which has previously shared its concerns with the possible casino expansion in Japan, has emphasised that the process of legalising the so-called integrated resorts casinos (5) _____ be more transparent. Wakayama Network has been long known as one of the anti-casino groups in the country. It has previously urged the local government to provide more transparency on the legislation process related to integrated resorts and the expected casino expansion.

Adapted from Lewis, L. (2016, December 15). Japan legalises casinos with landmark gambling law. Retrieved from <https://www.ft.com/content/772e1658-c296-11e6-9bca-2b93a6856354>

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PART 2: REPORTED SPEECH (5 MARKS)

Change each underlined direct speech to a reported statement.

Dalits, also known as “untouchables”, are at the bottom of the Hindu caste system. Despite laws to protect them, they still face widespread discrimination in India. Education, economic prosperity and a growing sense of selfhood are making many young Dalits and their families get married in stylish and impressive ceremonies, which have raised the hackles of upper castes.

As Dalit protests engulfed much of the country, Ramprasad Bamnia was fighting his own battle in Madhya Pradesh. The mood was tense and sombre on his wedding day recently. The reason was that he had the audacity to ride a horse, and his wedding procession was dancing happily on the street. This was enough to rile the dominant Rajput community. A group of people pelted stones, and one hit him, forcing him to alight from the horse. (1) “On my wedding day, the police helped us escape from an attack by a group armed with sticks,” said the shaken groom.

Ramprasad is a police constable himself, posted in Shajapur district, but it made no difference to the caste hierarchy. However, it did help in getting police protection for his wedding procession to proceed. It was pride that made Ramprasad feel determined not to change his marriage venue. (2) “If people who are educated like me let themselves be cowed by such evil practices, it will only encourage people to practise caste biases,” he continued.

Sanjay Jatav, a Dalit from Hathras, refuses to allow traditional definitions of caste to define him. Jatav is studying in an Aligarh college and has recently moved the Allahabad High Court, seeking protection to take his wedding procession to his bride's village in Uttar Pradesh's Kasganj district, after the district magistrate turned him down. The High Court redirected him back to the local police, and he now plans to move the Supreme Court. (3) “Why can't we enter the area when the roads are common for everyone in the village?” Sanjay said. For the wedding, the Kasganj administration has charted an alternate route that is 800 metres long and skirts upper-caste homes.

Dalit thinker and political commentator, Chandrabhan Prasad, emphasised that the attacks were a sign of the growing frustration among castes who were losing their traditional power. “In India, justice for the poor and powerless is the exception rather than the rule. India fails to uphold existing laws against caste discriminations, and violations of human rights of Dalits are rampant. Hence, Dalits need to do something. (4) Rise and fight against this disease fearlessly,” he said.

For Rampal Balai, getting a horse for his daughter's groom for the wedding in March recently was a sign of how far he had come. The procession was moving to Dhuwaliya village in Rajasthan's Bhilwara district when it was attacked by the Jat people. “We did not let the groom get down from the horse when the Jat people stopped the wedding procession, and then we called for police help,” he said. (5) “Is one's destiny determined by the caste he or she was born into? The upper castes think of themselves as more than humans, and they regard us as animals. I am pursuing the case legally, and I have not given up,” he added.

Adapted from Himanshi Dhawan & Amarjeet Singh (2018, April 8). Why Dalits are fighting for the right to ride a horse. Retrieved from <https://timesofindia.indiatimes.com/home/sunday-times/when-the-marriage-mare-becomes-a-nightmare/articleshow/63660253.cms>

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SECTION C: WRITING [25 MARKS]

Answer the question below. Write an essay of about 450 words.

Generally, university students in Malaysia are required to adhere to the dress code specified by their respective universities.

It is often argued that enforcement of a dress code in universities limits students' liberty. Do you agree? Give reasons to support your view.

End of Paper